

Order

Michigan Supreme Court Lansing, Michigan

June 7, 2005

ADM File No. 2004-42

Proposed Amendment of
Rules 8.103, 8.107 and 8.110
of the Michigan Court Rules

Clifford W. Taylor
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Justices

On order of the Court, this is to advise that the Court is considering amendments of Rules 8.103, 8.107, and 8.110 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 8.103 State Court Administrator

The state court administrator, under the Supreme Court's supervision and direction, shall:

(1)–(3) [Unchanged.]

(4) File a request for investigation with the Judicial Tenure Commission against each judge who consistently fails to comply with the caseload management standards articulated in Administrative Order No. 2003-7 or fails to accurately report all matters undecided in compliance with the reporting requirement articulated in MCR 8.107.

(4-11) [Renumbered 5-12, but otherwise unchanged.]

Rule 8.107 Statement by Trial Judge as to Matters Undecided

(A) Time. Matters under submission to a judge or judicial officer should be promptly determined. Short deadlines should be set for presentation of briefs and affidavits and for production of transcripts. Decisions, when possible, should be made from the bench or within a few days of submission; otherwise a decision should be rendered no later than 35 days after submission. For the purpose of this rule, the time of submission is the time the last argument or presentation in the matter was made, or the expiration of the time allowed for filing the last brief or production of transcripts, as the case may be.

- (B) Report as to Matters Undecided. Every trial judge shall, on the first business day of January, May, and September, April, July, and October of each year, every trial judge shall file a certified statement with the state court administrator a certified statement in the form prescribed by the state court administrator, containing full information on any matter submitted to the judge for decision more than 4 months earlier which remains undecided which exceeded 56 days from submission at any time during the reporting period. The judge shall also set forth in the statement the reason a matter remains undecided. For the purpose of this rule the time of submission is the time the last argument or presentation in the matter was made or the expiration of the time allowed for filing the last brief, as the case may be. If the judge has no cases to report, the word "none" on a signed report is required. The statement shall provide information on all matters pending during the reporting period that were not decided within 56 days from submission. The judge shall state the reason that a decision was not made within 56 days. A report is required regardless of whether there is any case to report. A copy of the report shall be filed with the chief judge of the court.

Rule 8.110 Chief Judge Rule

(A)-(B) [Unchanged.]

(C) Duties and Powers of Chief Judge.

(1) [Unchanged.]

(2) As the presiding officer of the court, a chief judge shall:

- (a) call and preside over meetings of the court;
- (b) appoint committees of the court;
- (c) initiate policies concerning the court's internal operations and its position on external matters affecting the court;
- (d) meet regularly with all chief judges whose courts are wholly or partially within the same county;
- (e) represent the court in its relations with the Supreme Court, other courts, other agencies of government, the bar, the general public, and the news media, and in ceremonial functions; ~~and~~
- (f) counsel and assist other judges in the performance of their responsibilities; and
- (g) cooperate with all investigations conducted by the Judicial Tenure Commission.

(3)-(4) [Unchanged.]

(5) The chief judge of the court in which criminal proceedings are pending shall have filed with the state court administrator a monthly report setting forth the reasons for delay in the proceedings:

(a) ~~in felony cases in which there has been a delay of 28 days between the hearing on the preliminary examination or the date of the waiver of the preliminary examination and the arraignment on the information or indictment; more than 154 days between the order binding the defendant over to circuit court and adjudication;~~

~~(b) in felony cases in which there has been a delay of 6 months between the date of the arraignment on the information or indictment and the beginning of trial;~~

~~(b) (e)~~ in misdemeanor cases and cases involving local ordinance violations that have criminal penalties in which there has been a delay of ~~6 months~~ more than 91 days between the date of the ~~arraignment~~ defendant's first appearance on the warrant and complaint or citation and the beginning of the trial adjudication;

(c) In computing the 91-day and 154-day periods, the court shall exclude periods of delay

(1) between the time a preadjudication warrant is issued and a defendant is arraigned;

(2) between the time a defendant is referred for evaluation to determine whether he or she is competent to stand trial and the receipt of the report; or

(3) during the time a defendant is deemed incompetent to stand trial.

~~(d) in felony cases in which a defendant is incarcerated longer than 6 months and in misdemeanor cases in which a defendant is incarcerated longer than 28 days.~~

(6)-(7) [Unchanged.]

(D) [Unchanged.]

Staff Comment: New MCR 8.107(A) would require a judge to decide matters promptly after submission. MCR 8.107(B) would require a judge to submit quarterly reports that include information on all matters pending during the reporting period that were not decided within 56 days of submission.

The amendments of MCR 8.110(C) would require monthly reports to the state court administrator in felony cases where there has been a delay of more than 154 days between the order binding a defendant over to circuit court and adjudication in felony cases, or a delay of more than 91 days between a defendant's first appearance on the warrant and complaint, or citation, and adjudication in misdemeanor cases and local ordinance violations that carry criminal penalties.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by September 1, 2005, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2004-42. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 7, 2005⁴ Major 3 Major
Deputy Clerk